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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

MUENCH PHOTOGRAPHY, INC.,

Plaintiff,

- v -

HOUGHTON MIFFLIN HARCOURT
PUBLISHING COMPANY and R.R.
DONNELLEY & SONS COMPANY,

Defendants.

ECF CASE
ELECTRONICALLY FILED

09-CV-2669 (LAP) (JCF)

**DECLARATION OF
KENNETH A. PLEVAN**

Kenneth A. Plevan, under penalty of perjury, declares as follows:

1. I am a member of the bar of the State of New York, and of this Court, and I am a member of the law firm of Skadden, Arps, Slate, Meagher & Flom LLP, counsel for defendants Houghton Mifflin Harcourt Publishing Company and R.R. Donnelley and Sons Company.
2. This is a transmittal declaration to put before the Court the attached Exhibits in support of Defendants' Memorandum of Law in Support of Defendants' Motion to Dismiss for Lack of Subject Matter Jurisdiction.
3. Defendants' Exhibit 1 is a true and correct copy of the Public Catalog Record for copyright registration number VA0000863783, obtained from the Copyright Office on-line registration database (available at <http://cocatalog.loc.gov>), and referenced in Ex. A to the Complaint.

4. Defendants' Exhibit 2 is a true and correct copy of the Public Catalog Record for copyright registration number VA0000863785, obtained from the Copyright Office on-line registration database (available at <http://cocatalog.loc.gov>), and referenced in Ex. A to the Complaint.

5. Defendants' Exhibit 3 is a true and correct copy of the Public Catalog Record for copyright registration number VA000115519, obtained from the Copyright Office on-line registration database (available at <http://cocatalog.loc.gov>), and referenced in Ex. A to the Complaint.

6. Defendants' Exhibit 4 is a true and correct copy of the Public Catalog Record for copyright registration number VA0001038658, obtained from the Copyright Office on-line registration database (available at <http://cocatalog.loc.gov>), and referenced in Ex. A to the Complaint.

7. Defendants' Exhibit 5 is a true and correct copy of the Public Catalog Record for copyright registration number VA0001378558, obtained from the Copyright Office on-line registration database (available at <http://cocatalog.loc.gov>), and cited in Ex. A to the Complaint.

8. Defendants' Exhibit 6 is a true and correct copy of the Public Catalog Record for copyright registration number VA0001371165, obtained from the Copyright Office on-line registration database (available at <http://cocatalog.loc.gov>), and cited in Ex. A to the Complaint.

9. Defendants' Exhibit 7 is a true and correct copy of the Affidavit of Nancy E. Wolff, executed on April 7, 2008, and submitted by counsel to Plaintiff in this action in the parallel litigation *Bean v. McDougal Littell, a division of Houghton Mifflin Harcourt*, No. 07 cv 8063 (D. Ariz.).

10. Defendants' Exhibit 8 is a true and correct copy of Tab 1 to the Affidavit of Nancy Wolff, an article authored by Nancy Wolff entitled "new instructions for completing an application to register a stock photo catalog."

11. Defendants' Exhibit 9 is a true and correct copy of Tab 2 to the Affidavit of Nancy Wolff, a letter to Nancy Wolff from Nanette Petruzzelli, Chief of the Examining Division of the United States Copyright Office.

12. Defendants' Exhibit 10 is a true and correct copy of Tab 3 to the Affidavit of Nancy Wolff, an article authored by Nancy Wolff entitled, "Update on Catalog Registration."

13. Defendants' Exhibit 11 is a true and correct copy of *Circular 62, Copyright Registration for Single Serial Issues* (available at <http://www.copyright.gov/circs/circ62.pdf>).

14. Defendants' Exhibit 12 is a true and correct copy *Circular 4, Copyright Office Fees* (available at <http://www.copyright.gov/circs/circ04.pdf>).

I declare under penalty of perjury that the foregoing is true and correct. Executed in New York, New York on May 15, 2009.

Respectfully submitted,

s/ Kenneth A. Plevan
Kenneth A. Plevan